



# U.S.-China Counterterrorism Cooperation: Issues for U.S. Policy

**Shirley A. Kan**  
Specialist in Asian Security Affairs

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## Summary

After the terrorist attacks on September 11, 2001, the United States faced a challenge in enlisting the full support of the People's Republic of China (PRC) in the counterterrorism fight against Al Qaeda. This effort raised short-term policy issues about how to elicit cooperation and how to address PRC concerns about the U.S.-led war (Operation Enduring Freedom). Longer-term issues have concerned whether counterterrorism has strategically transformed bilateral ties and whether China's support was valuable and not obtained at the expense of other U.S. interests.

The extent of U.S.-China counterterrorism cooperation has been limited, but the tone and context of counterterrorism helped to stabilize—even if it did not transform—the closer bilateral relationship pursued by President George Bush since late 2001. China's military, the People's Liberation Army (PLA), has not participated in the counterterrorism coalition. Still, for almost four years after the attacks on September 11, 2001, President Bush and other administration officials tended to praise the PRC's diplomatic and other support for the war against terrorism.

Since 2005, however, U.S. concerns about China's extent of cooperation in counterterrorism have increased. In September 2005, Deputy Secretary of State Robert Zoellick acknowledged that “China and the United States can do more together in the global fight against terrorism” after “a good start,” in his policy speech that called on China to be a “responsible stakeholder” in the world. The summits of the Shanghai Cooperation Organization (SCO) in 2005 and 2006 raised U.S. concerns. Since the summer of 2007, U.S. officials have expressed more concern about China-origin arms that have been found in the conflict involving U.S. forces in Afghanistan, as part of the broader threat posed by Iran and its arms transfers.

Congress has oversight over the closer ties with China and a number of policy options. U.S. policy has addressed: law-enforcement ties; oppressed Uighur (Uyghur) people in western Xinjiang whom China claims to be linked to “terrorists”; detained Uighurs at Guantanamo Bay prison; Olympic security in August 2008; sanctions that ban exports of arms and security equipment; weapons nonproliferation; port security; military-to-military contacts; China's influence in Central Asia through the SCO; and China's arms transfers to Iran.

The House passed on September 17, 2007, **H.Res. 497**, noting that the PRC has manipulated the campaign against terrorists to increase oppression of the Uighur people, and has detained and beaten Rebiya Kadeer's children and imprisoned an ethnic Uighur Canadian. On May 22, 2008, Senator Sherrod Brown introduced the similar bill, **S.Res. 574**. On July 30, 2008, the House passed **H.Res. 1370**, calling on the PRC to stop repression of the Tibetan and Uighur peoples. The PRC's claims of “terrorist” threats from Uighurs have lacked clarity and confirmation. Some violent incidents occurred before and during the Olympic Games in the summer of 2008.

On October 7, 2008, a judge ordered the release of the 17 remaining Uighurs detained at Guantanamo. A Court of Appeals reversed that decision on February 18, 2009. Congress oversees President Obama's efforts to try to transfer the Uighur detainees at Guantanamo to a third country or resettle them in the United States. On May 7, Representative John Boehner introduced **H.R. 2294**, the “Keep Terrorists Out of America Act” related in general to the various detainees at Guantanamo. This report will be updated as warranted.

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## Aftermath of the 9/11 Attacks

China has seen itself as a victim of terrorist attacks in the 1990s, thought to be committed by some Muslim extremists (ethnic Uighur separatists) in the northwestern Xinjiang region. Some Uighur activists reportedly received training in Afghanistan. China's concerns appeared to place it in a position to support Washington and share intelligence after the attacks of September 11, 2001.<sup>1</sup> In a message to President Bush on September 11, PRC ruler Jiang Zemin condemned the terrorist attacks and offered condolences. In a phone call with the President on September 12, Jiang reportedly promised to cooperate with the United States to combat terrorism. At the U.N. Security Council (UNSC) on the same day, the PRC (a permanent member) voted with the others for Resolution 1368 (to combat terrorism). On September 20, Beijing said that it offered "unconditional support" in fighting terrorism. On September 20-21, visiting Foreign Minister Tang Jiaxuan promised cooperation, and Secretary of State Colin Powell indicated that discussions covered intelligence-sharing but not military cooperation. PRC counterterrorism experts attended a "productive" initial meeting on September 25, 2001, in Washington, DC. On September 28, 2001, China voted with all others in the UNSC for Resolution 1373, reaffirming the need to combat terrorism.

PRC promises of support for the U.S. fight against terrorism, however, were qualified by other initial statements expressing concerns about U.S. military action. China also favored exercising its decision-making authority at the UNSC, where it has veto power. Initial commentary in official PRC media faulted U.S. intelligence and U.S. defense and foreign policies (including that on missile defense) for the attacks. On September 18, 2001, in a phone call with British Prime Minister Tony Blair, China reported Jiang as saying that war against terrorism required conclusive evidence, specific targets to avoid hurting innocent people, compliance with the U.N. Charter, and a role for the Security Council. Also, observers were appalled at the reported gleeful anti-U.S. reactions in the PRC's online chat rooms after the attacks.

In Tokyo, on January 21, 2002, at a conference on reconstruction aid to Afghanistan, China pledged \$1 million, in addition to humanitarian goods worth \$3.6 million. But three days later, Jiang promised to visiting Afghan interim leader Hamid Karzai additional reconstruction aid of \$150 million spread over four to five years. Of this \$150 million, China offered \$47 million by 2003 and offered \$15 million in 2004.<sup>2</sup>

## Policy Analysis

The extent of U.S.-China counterterrorism cooperation has been limited, but the tone and context of counterterrorism helped to stabilize—even if it did not transform—the closer bilateral relationship pursued by President Bush since late 2001. In the short-term, U.S. security policy toward Beijing sought counterterrorism cooperation, shifting from issues about weapons proliferation and military maritime safety (in the wake of the EP-3/F-8 aircraft collision crisis of April 2001).<sup>3</sup> Given the mixed

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<sup>1</sup> See also CRS Report RL31213, *China's Relations with Central Asian States and Problems with Terrorism*, by Dewardric L. McNeal and Kerry Dumbaugh.

<sup>2</sup> "China to Offer \$15m for Afghan Reconstruction," *Xinhua*, April 1, 2004.

<sup>3</sup> See CRS Report RL30946, *China-U.S. Aircraft Collision Incident of April 2001: Assessments and Policy Implications*, by Shirley A. Kan et al.

state of bilateral ties after the collision crisis, Beijing's support met much of initial U.S. expectations. Testifying to Congress in February 2002, Secretary of State Colin Powell praised Beijing's diplomatic support, saying "China has helped in the war against terrorism."<sup>4</sup>

Concerning other support, including any cooperation by the People's Liberation Army (PLA), the commanders of the Central and Pacific Commands, Gen. Tommy Franks and Adm. Dennis Blair, separately confirmed in April 2002 that China did not provide military cooperation (nor was it requested) in Operation Enduring Freedom in Afghanistan (e.g., basing, staging, or overflight) and that its shared intelligence was not specific enough, particularly as compared to cooperation from the Philippines, Singapore, and Malaysia.<sup>5</sup> The Pentagon's June 2002 report on foreign contributions in the counterterrorism war did not include China among the 50 countries in the coalition.<sup>6</sup> In December 2002, Assistant Secretary of State James Kelly confirmed intelligence-sharing, saying "we are sharing [counterterrorism] information to an unprecedented extent but making judgments independently."<sup>7</sup>

China's long-standing relationship with nuclear-armed Pakistan was an important factor in considering the significance of Beijing's support, especially with concerns about the viability of Pakistani President Pervez Musharraf's government. Some said that Pakistan's cooperation with the United States must come with PRC acquiescence, pointing to a PRC envoy's meeting with Musharraf on September 18, 2001. However, on September 13, 2001, Musharraf already had agreed to fight with the United States against bin Laden.<sup>8</sup> The PRC has reportedly provided Pakistan with nuclear and missile technology. China could provide intelligence about Pakistan's nuclear weapons and any suspected technology transfers out of Pakistan to countries like North Korea, Iran, and Libya.

In the long term, counterterrorism was initially thought by some to hold strategic implications for the U.S.-PRC relationship. However, it has remained debatable as to whether such cooperation has fundamentally transformed the bilateral relationship. Policymakers watched to see whether Beijing's leaders used the opportunity to improve bilateral ties, especially on weapons nonproliferation problems. In his State of the Union speech on January 29, 2002, President Bush expressed his expectation that "in this moment of opportunity, a common danger is erasing old rivalries. America is working with Russia and China and India, in ways we have never before, to achieve peace and prosperity." Nonetheless, Director of Central Intelligence George Tenet testified to Congress in February 2002, that the 9/11 attacks did not change "the fundamentals" of China's approach to us.<sup>9</sup>

The PRC's concerns about domestic attacks and any links to foreign terrorist groups, U.S.-PRC relations, China's international standing in a world dominated by U.S. power (particularly after

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<sup>4</sup> Senate Foreign Relations Committee, hearing, *Fiscal Year 2003 Foreign Affairs Budget*, February 5, 2002.

<sup>5</sup> Foreign Press Center Briefing, General Tommy Franks, Commander, U.S. Central Command, Washington, April 11, 2002; Press Roundtable with Adm. Dennis Blair, Commander, U.S. Pacific Command, Hong Kong, April 18, 2002.

<sup>6</sup> Department of Defense, "Fact Sheet: International Contributions to the War Against Terrorism," June 14, 2002.

<sup>7</sup> Assistant Secretary of State for East Asian and Pacific Affairs, "U.S.-East Asia Policy: Three Aspects," Woodrow Wilson Center, Washington, December 11, 2002.

<sup>8</sup> First reported by Dan Balz, Bob Woodward, and Jeff Himmelman, "Thursday, September 13," *Washington Post*, January 29, 2002; and confirmed in the 9/11 Commission's report, *Final Report of the National Commission on Terrorist Attacks Upon the United States*, July 22, 2004.

<sup>9</sup> Senate Select Committee on Intelligence, hearing, *Worldwide Threats: Converging Dangers in a Post-9/11 World*, February 6, 2002.

the terrorist attacks), and its image as a responsible world power helped explain China’s supportive stance. However, Beijing also worried about U.S. military action near China, U.S.-led alliances, Japan’s active role in the war on terrorism, greater U.S. influence in Central and South Asia, and U.S. support for Taiwan—all exacerbating long-standing fears of “encirclement.”

China issued a Defense White Paper in December 2002, stating that major powers remained in competition but that since the September 2001 attacks against the United States, countries have increased cooperation. Although this policy paper contained veiled criticisms of the United States for its military buildup, stronger alliances in Asia, and increased arms sales to Taiwan, it did not criticize the United States by name as in the Defense White Paper of 2000. However, the Defense White Papers of 2004 and 2006 again criticized the United States by name.

Since 2005, U.S. concerns about China’s extent of cooperation in counterterrorism have increased. In September 2005, Deputy Secretary of State Robert Zoellick acknowledged that “China and the United States can do more together in the global fight against terrorism” after “a good start,” in his policy speech that called on China to be a “responsible stakeholder” in the world. The summits of the Shanghai Cooperation Organization (SCO) in 2005 and 2006 raised U.S. concerns. Since the summer of 2007, U.S. officials have expressed more concern about China-origin arms that have been found in the conflict involving U.S. forces in Afghanistan, as part of the broader threat posed by Iran and its arms transfers.

## **Options and Implications for U.S. Policy**

### **Summits and “Strategic” Ties**

The counterterrorism campaign helped to stabilize U.S.-PRC relations up to the highest level, which faced tensions early in the Bush Administration in April 2001 with the EP-3 aircraft collision crisis and U.S. approvals of arms sales to Taiwan. According to the Final Report of the 9/11 Commission issued in July 2004, President Bush chaired a National Security Council meeting on the night of September 11, 2001, in which he contended that the attacks provided a “great opportunity” to engage Russia and China. President Bush traveled to Shanghai in October 2001 for his first meeting with then PRC President Jiang Zemin at the Leaders’ Meeting of the Asia Pacific Economic Cooperation (APEC) forum. Bush called the PRC an important partner in the global coalition against terrorists but also warned Jiang that the “war on terrorism must never be an excuse to persecute minorities.”<sup>10</sup> On February 21-22, 2002, the President visited Beijing (a trip postponed in October), after Tokyo and Seoul. The President then hosted Jiang at Bush’s ranch in Crawford, TX, on October 25, 2002, and Bush said that the two countries were “allies” in fighting terrorism.<sup>11</sup> By the fall of 2005, Deputy Secretary of State Robert Zoellick acknowledged that “China and the United States can do more together in the global fight against terrorism” after “a good start,” in his policy speech calling on China to be a “responsible stakeholder.”<sup>12</sup>

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<sup>10</sup> White House, “U.S., China Stand Against Terrorism,” Shanghai, China, October 19, 2001.

<sup>11</sup> White House, “President Bush, Chinese President Jiang Zemin Discuss Iraq, N. Korea,” Crawford, Texas, October 25, 2002.

<sup>12</sup> Robert Zoellick, “Whither China: From Membership to Responsibility,” September 21, 2005.

## Law-Enforcement Cooperation

On December 6, 2001, Francis Taylor, the State Department's Coordinator for Counter-Terrorism, ended talks in Beijing that reciprocated the September 25 meeting in Washington, DC. He announced that the PRC agreed to give "positive consideration" to a long-sought U.S. request for the FBI to set up a Legal Attaché office at the U.S. Embassy, that counterterrorism consultations would occur semi-annually, and that the two sides would set up a Financial Counter-Terrorism Working Group. He reported that Beijing's cooperation has entailed coordination at the U.N., intelligence-sharing, law enforcement liaison, and monitoring of financial networks.<sup>13</sup> The PRC approved the FBI office in February 2002, and the first semi-annual meeting on terrorist financing was held at the Treasury Department in late May. The FBI attaché arrived at the U.S. Embassy in Beijing in September 2002. In November 2005, U.S. Attorney General Alberto Gonzales met with PRC Minister of Public Security Zhou Yongkang in Beijing. Visiting Beijing in June 2007, FBI Assistant Director for International Operations Thomas Fuentes said that he seeks "more information" from the PRC on terrorism.<sup>14</sup>

## Uighur People in Xinjiang and "Terrorist" Organizations

Questions concern the U.S. stance on the PRC's policy toward the Uighur (Uyghur) people in the northwestern Xinjiang region that links them to what the PRC calls "terrorist" organizations. Congress has concerns about the human rights of Uighurs. China has accused the United States of using "double standards" in counterterrorism in disagreements over how to handle the Uighurs.

Xinjiang has a history of unrest dating back before September 2001, particularly since the unrest in 1990. The PRC charges Uighurs with violent crimes and "terrorism," but Uighurs say they have suffered executions, torture, detentions, harassment, religious persecution, and racial profiling. Human rights and Uighur groups have warned that, after the 9/11 attacks, the PRC shifted to use the international counterterrorism campaign to justify the PRC's long-term cultural, religious, and political repression of Uighurs both in and outside of the PRC.<sup>15</sup> Since 2002, the PLA has conducted military exercises in Xinjiang with Central Asian countries and Russia to fight what the PRC calls "East Turkistan terrorists" and what it combines as the threat of "three evil forces" (of separatism, extremism, and terrorism). Critics say China has compelled extraditions of Uighurs for execution and other punishment from countries such as Uzbekistan, Kyrgyzstan, Kazakhstan, Nepal, and Pakistan, raising questions about violations of the international legal principle of non-refoulement and the United Nations Convention Against Torture.

The Uighurs are an ethnically Turkish people who speak Uighur and practice a moderate form of Islam. They say that their population totals 10-15 million people. Countering China's colonial name of "Xinjiang," meaning "new frontier," the Uighurs call their Central Asian homeland "East Turkistan." The land makes up about one-sixth of today's PRC. In 1884, the Manchurian Qing empire based in northern China incorporated the area as a province called "Xinjiang." Later, it

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<sup>13</sup> Department of State, press conference, Beijing, December 6, 2001.

<sup>14</sup> Daniel Schearf, "U.S. Federal Bureau of Investigations Seeks Further Cooperation with China," *VOA News*, June 13, 2007.

<sup>15</sup> Amnesty International, "Uighurs Fleeing Persecution as China Wages its 'War on Terror,'" July 7, 2004; Uyghur Human Rights Project, "Persecution of Uyghurs in the Era of the 'War on Terror,'" October 16, 2007.

was briefly the Republic of East Turkistan in 1933 and in 1944, and a Soviet satellite power from 1934 to 1941. In October 1949, the Communist Party of China set up the PRC and deployed PLA troops to occupy and govern Xinjiang. In 1955, the PRC incorporated the area as the “Xinjiang Uyghur Autonomous Region.”<sup>16</sup> In addition to PLA forces, the paramilitary People’s Armed Police (PAP) has imposed controls. Unique to Xinjiang are the paramilitary Production and Construction Corps (PCC) guarding, producing, and settling there; the past nuclear weapon testing at Lop Nur; and routine executions for what Uighurs say are political and religious dissent. Like Tibetans, Uighurs resent the Communist controls on religion, military deployments and exercises, increasing immigration of ethnic Han (Chinese) people, and forced birth control. PRC census data report Uighurs at 8.4 million and Hans at 40% of Xinjiang’s population (up from 6% in 1953). In the early 1990s, the breakup of the Soviet Union and independence of neighboring Central Asian republics encouraged the Uighurs. In response to their dissent, the PRC regime routinely has held huge public sentencing rallies and executions of Uighurs, forcing thousands to watch (one in 1998 involved more than 20,000) and intimidating Uighurs by “killing one to frighten thousands,” according to official PRC media.

As discussed above, Francis Taylor, the State Department’s Coordinator for Counter-Terrorism, visited Beijing in December 2001. While he confirmed that there were “people from western China that are involved in terrorist activities in Afghanistan,” he rejected the view that “all of the people of western China are indeed terrorists” and urged Beijing to deal politically with their “legitimate” social and economic challenges and not with counterterrorism means. Taylor stated that the United States did not agree that “East Turkestan” forces were terrorists. He said that the U.S. military captured some people from western China who were involved in Afghanistan with Al Qaeda (the terrorist group led by Osama bin Laden).

Nonetheless, while in Beijing on August 26, 2002, Deputy Secretary of State Richard Armitage announced that, after months of bilateral discussions, he designated (on August 19) the East Turkistan Islamic Movement (ETIM) as a terrorist group that committed acts of violence against unarmed civilians. China had issued a new report in January 2002, publicly charging ETIM and other East Turkistan “terrorist” groups with attacks in the 1990s and linking them to the international terrorism of Osama bin Laden’s Al Qaeda.<sup>17</sup> The U.S. Embassy in Beijing suggested that ETIM planned to attack the U.S. Embassy in Kyrgyzstan, but no attack took place. The Kyrgyz Foreign Minister cited as suspicious that one Uighur was found with a map of embassies in Bishkek.<sup>18</sup>

The State Department designated ETIM as a terrorist organization under Executive Order 13224 (to freeze assets) but not as a Foreign Terrorist Organization (FTO) (under the Immigration and Nationality Act). E.O. 13224 defines “terrorism” as “activity that (1) involves a violent act or an act dangerous to human life, property, or infrastructure; and (2) appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.” At the same time, the United States, PRC, Afghanistan, and Kyrgyzstan asked the United Nations to designate ETIM under U.N. Security Council Resolutions 1267 and 1390 (to freeze assets of this group).

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<sup>16</sup> James Millward, *Eurasian Crossroads: a History of Xinjiang*, Columbia University, 2007.

<sup>17</sup> PRC State Council, “‘East Turkistan’ Terrorist Forces Cannot Get Away with Impunity,” *Xinhua*, January 21, 2002.

<sup>18</sup> Philip Pan, “U.S. Warns of Plot by Group in W. China,” *Washington Post*, August 29, 2002.

Later, in 2004, the Secretary of State also included ETIM in the “Terrorist Exclusion List (TEL)” (to exclude certain foreign aliens from entering the United States), under Section 411 of the USA PATRIOT Act of 2001 (P.L. 107-56).

In April 2009, the Treasury Department designated Abdul Haq (aka Abdul Heq), a Uighur born in Xinjiang and leader of the East Turkistan Islamic Party (ETIP), another name for ETIM, as an individual targeted under E.O. 13224, “Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism.” (See discussion of ETIM’s leadership below.) This action followed a decision at the U.N. Security Council on implementation of Resolution 1267 to identify Haq as a person associated with Osama bin Laden, Al Qaeda, or the Taliban and subject to national sanctions. As part of the justification for the designation, the Treasury Department declared that Haq had directed in January 2008 the military commander of ETIP to attack cities in China holding the Olympic Games but did not state whether such directed attacks occurred. Also, the Treasury Department noted that as of 2005 (four years prior), Haq was a member of Al Qaeda’s Shura Council (consultative group).<sup>19</sup>

The case against ETIM—including even its name—has been complicated, in part by questions of the credibility of PRC claims that link “terrorism” to repressed groups like Uighurs, Tibetans, and Falungong. Moreover, there have been challenges in verifying the authenticity of Internet messages and websites ostensibly belonging to the Turkistan Islamic Party (TIP), apparently another name for ETIM, with possibilities that one or more messages were created by such a terrorist group, fabricated by the PRC to justify its charges, or made as a deception by a third party.

No group calling itself ETIM claimed responsibility for violent incidents in the 1990s. Although many Uighur or East Turkistan advocacy groups around the world have been reported for decades, the first available mention of ETIM was found in 2000. A Russian newspaper reported that Osama bin Laden convened a meeting in Afghanistan in 1999 that included the Islamic Movement of Uzbekistan (IMU) and ETIM, and he agreed to give them funds.<sup>20</sup> A Kyrgyz report in 2001 named ETIM as a militant Uighur organization with links to IMU and training in Afghanistan and Pakistan, but did not mention any links to Al Qaeda.<sup>21</sup> Detailed information on “three evil forces” written in August 2001 by a PRC scholar at the Xinjiang Academy of Social Sciences did not name ETIM.<sup>22</sup> Before the PRC government’s public report of January 2002 on “East Turkestan terrorists,” most were not aware of ETIM, and PRC officials or official media did not mention ETIM until a Foreign Ministry news conference shortly after the September 2001 terrorist attacks in the United States. But even then, the PRC did not blame ETIM for any of alleged incidents.<sup>23</sup>

In 2002, the leader of what China called ETIM, Hasan Mahsum, referred to his organization as the East Turkistan Islamic Party (ETIP) and said that it had no “organizational links” with Al Qaeda or Taliban (the extremist Islamic regime formed by former anti-Soviet Islamic fighters

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<sup>19</sup> Treasury Department, “Treasury Targets Leader of Group Tied to Al Qaida,” April 20, 2009; *Federal Register*, April 27, 2009.

<sup>20</sup> Yuri Yegorov, “Color Green is Needed,” *Nezavisimaya Gazeta*, July 26, 2000.

<sup>21</sup> Alisher Muradov, “East Turkestan is a Great State,” *Moskovskiy Komsomolets v Kyrgyzstane*, September 6, 2001.

<sup>22</sup> Interview with Pan Zhiping in “Three Evil Forces Threatening Xinjiang’s Stability,” *Ta Kung Pao* [PRC-owned newspaper in Hong Kong], August 10, 2001.

<sup>23</sup> PRC Ministry of Foreign Affairs news conference, November 15, 2001.

called Mujahedin that took over Afghanistan in 1994-1996). Moreover, he claimed that ETIM did not receive any financial aid from Osama bin Laden or Al Qaeda, although certain Uighur individuals were involved with the Taliban in Afghanistan.<sup>24</sup> In November 2003, an organization calling itself the Turkistan Islamic Party (TIP) posted on the Internet its denial of the U.S. and PRC designations of ETIM as a “terrorist organization.”<sup>25</sup>

In December 2003, the PRC’s Ministry of Public Security issued its first list of wanted “terrorists,” accusing four groups as “East Turkistan terrorist organizations” (ETIM, East Turkistan Liberation Organization (ETLO), World Uyghur Youth Congress, and East Turkistan Information Center) and 11 Uighurs as “terrorists,” with Hasan Mahsum at the top of the list.<sup>26</sup> China demanded foreign assistance to target them. However, the list was intentionally misleading or mistaken, because Mahsum was already dead. Confirming his operational area at the Afghan-Pakistani border, Pakistan’s military killed a multinational motley that included Mahsum on October 2, 2003, in Pakistan’s South Waziristan tribal district.<sup>27</sup> In December 2003, the leadership of what it called TIP (having changed its name from ETIP in 1999 to be inclusive of non-Uighur Turkic peoples) posted on the Internet an eulogy of Mahsum. TIP reviewed his development of an organization in Afghanistan with the Taliban’s support but not contact with Al Qaeda. The TIP announced that former Military Affairs Commander Abdul Heq took over as the leader (amir).<sup>28</sup> However, the PRC Ministry of Public Security’s list did not include Abdul Heq. In 2004, the deputy leader, Abudula Kariaji, said that ETIM had sent militants trained in small arms and explosives to China and had met in 1999 with Osama bin Laden, who allowed some Uighurs to train in Afghanistan but did not support their non-Arab cause of over-throwing China’s rule.<sup>29</sup> In January 2008, Al Qaeda in Afghanistan issued a book on 120 “martyrs” that included five who were Uighurs born in Xinjiang and fought with the Taliban in Afghanistan. One of them was said to have died fighting U.S. military forces that launched attacks in 2001.<sup>30</sup> In video messages since 2006, Al Qaeda’s deputy leader, Ayman al-Zawahiri, on rare occasions, has mentioned the East Turkistan problem among various worldwide concerns. Beyond this awareness, he has not cited a relevant organization or action. In the video released on the eve of the 7<sup>th</sup> anniversary of the September 2001 attacks, he did not mention the East Turkistan cause or China in a litany of grievances.<sup>31</sup>

In 2003, Mehmet Emin Hazret, the leader of the East Turkistan Liberation Organization (ETLO), another organization targeted by the PRC’s 2002 report as a “terrorist organization,” denied that his group was responsible for violent incidents or had knowledge of an organization called ETIM, although he knew of its alleged leaders who had been in PRC prisons. Hazret also denied that

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<sup>24</sup> “Uyghur Separatist Denies Links to Taliban,” *Radio Free Asia*, January 27, 2002. Also, a few Uighurs had been reported as studying at a Pakistani madrassa (religious school) and joining the Taliban in fighting in Afghanistan in 1999, as well as joining the Islamic fights in Chechnya and Uzbekistan (Ahmed Rashid and Susan Lawrence, “Joining Foreign Jihad,” *Far Eastern Economic Review*, September 7, 2000).

<sup>25</sup> Turkistan Islamic Party, “Refute and Reminder of Accusations Published Around the World About Turkistan Islamic Party,” November 24, 2003.

<sup>26</sup> “Eastern Turkistan Terrorist Groups, Individuals Identified,” *Xinhua*, December 15, 2003.

<sup>27</sup> *Al-Hayah*, October 17, 2003; AFP, December 23, 2003; *Xinhua*, December 24, 2003.

<sup>28</sup> Turkistan Islamic Party, “Islam Tiger Hesen Mexsum (1964-2003),” December 31, 2003.

<sup>29</sup> David Cloud and Ian Johnson, “In Post-9/11 World, Chinese Dissidents Pose U.S. Dilemma,” *Wall Street Journal*, August 3, 2004.

<sup>30</sup> Al-Qa’ida in Afghanistan, “Martyrs in Time of Alienation,” January 31, 2008.

<sup>31</sup> Videos dated December 23, 2006; March 11, 2007; April 22, 2008; September 8, 2008.

ETLO had links to Al Qaeda. Nonetheless, he acknowledged that ETLO would inevitably set up a military wing to target the PRC government for its oppression of the Uighur people.<sup>32</sup>

The PRC government's own report of 2002 on "East Turkistan terrorists" claimed bombing incidents in Xinjiang from 1991 to 1998, with none after that year. That report did not discuss bombings outside of Xinjiang or call those other violent incidents "terrorism." The report alleged that some "terrorist" bombings occurred in February to April 1998 and injured 11 people. However, there were no PRC or non-PRC media reports of such incidents in 1998. Moreover, Xinjiang's Party Secretary Wang Lequan and Chairman Abulahat Abdurixit said in Beijing in early 1998 and 1999 that there were no major violent incidents in 1998. In April 1998, a PRC official journal published a comprehensive report on crime, cited bombings in 1997 but none in 1998, and stated that China had no terrorist organizations and had not been penetrated by any international terrorist groups.<sup>33</sup> In May 1998, Xinjiang's Vice Chairman Zhang Zhou told foreign reporters that there was an explosion near Kashgar earlier that year, but no one was killed or wounded.<sup>34</sup>

Before August 2008, the last bombing incident in Xinjiang reported by PRC and non-PRC media occurred in 1997, when three bombs exploded in three buses in Urumqi on February 25, 1997, while two other undetonated bombs were found on two buses. Many reports speculated that the deadly attacks were timed for the mourning period of PRC paramount ruler Deng Xiaoping who died on February 19.<sup>35</sup> However, the likely critical factor was the preceding major turmoil and crackdown in Xinjiang that occurred on February 5-6 in Yining (the western town Uighurs call Gulja), involving Uighur protests against executions, security crackdown, and perhaps hundreds killed and thousands arrested. Uighurs and Amnesty International called the incident the "Gulja Massacre."<sup>36</sup> Shortly after the incident on February 25, further bombings were reported in Urumqi on March 1, in Yining on March 3, in Beijing on March 5 and March 7, near Guangzhou on May 12, and in Beijing on May 13; but the PRC did not label the incidents outside of Xinjiang as "terrorist incidents." The incidents in 1997 occurred after the PRC government launched in 1996 the national anti-crime "Strike Hard" campaign that was carried out in Xinjiang and Tibet with crackdowns against those China called "separatists."

Uighur and human rights groups have expressed concern that the U.S. designation of ETIM as a terrorist organization in 2002 helped China to further justify persecution and violent repression against the people in Xinjiang. They also have noted distinctions between terrorism and armed

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<sup>32</sup> "Separatist Leader Vows to Target the Chinese Government; Uyghur Leader Denies Terror Charges," *Radio Free Asia*, January 29, 2003.

<sup>33</sup> *Zhongguo Guoqing Guoli*, April 28, 1998.

<sup>34</sup> *Ta Kung Pao*, March 13, 1998; *Zhongguo Xinwen She*, March 6, 1999; *South China Morning Post*, May 15, 1998.

<sup>35</sup> *AFP*, February 26 and March 5, 1997; *Reuters*, March 5, 1997; *Xinhua*, May 29, 1997.

<sup>36</sup> There are conflicting reasons for the protest and paramilitary crackdown in Yining that occurred on February 5-6, 1997, as reported by the *Washington Post*, February 11 and 23, 1997; *Washington Times*, February 12, 1997; International Taklamakan Uighur Human Rights Association, February 15, 1997; *Far Eastern Economic Review*, February 27, 1997; *AERA*, May 26, 1997; and Amnesty International, "China: Remember the Gulja Massacre," February 1, 2007. Mass sentencing and execution rallies were reported afterwards. *AFP* reported on February 12, 1997, that about 100 Uighurs were executed. On April 24, 1997, a court held a rally with over 5,000 people to sentence 30 alleged offenders in the incident, sentencing three Uighurs to death, according to PRC official media. *Reuters* reported that when about 100 people rushed to rescue the 30 prisoners, People's Armed Police opened fire, killing two and wounding five. Again, on July 23, 1997, PRC media in Urumqi reported that a court sentenced 29 "terrorists and criminals" at a rally with over 4,000 people. The sentences included nine death sentences.

resistance against military or security forces. They have pointed out that Uighurs have no anti-U.S. sentiments but rather look to the United States as a champion of their human rights.

In December 2002, Assistant Secretary of State James Kelly defended the action taken against ETIM as a step based on U.S. evidence that ETIM had links to Al Qaeda and committed violence against civilians, “not as a concession to the PRC.” Moreover, Lorne Craner, Assistant Secretary of State for Democracy, Human Rights, and Labor, specifically traveled to Urumqi to give a speech at Xinjiang University as part of a visit for the U.S.-PRC Human Rights Dialogue. He said that “both President Bush and Secretary Powell have made very clear publicly and privately that the U.S. does not and will not condone governments using counterterrorism as an excuse to silence peaceful expressions of political or religious views.” He added that the United States condemned the “Al Qaeda-linked” ETIM, but he was there to “reaffirm our friendship for the peaceful people of Xinjiang.”<sup>37</sup>

The Congress and President Bush expressed concerns about PRC repression of Uighurs, including imprisonment of the relatives of Rebiya Kadeer, a Uighur businesswoman who was detained in the PRC in 1999-2005 and was nominated for the Nobel Peace Prize in 2006 after she gained freedom in the United States.<sup>38</sup> In October 2006, a staff delegation of the House International Relations Committee reported heightened congressional concerns about the Administration’s designation of ETIM as a terrorist organization and the PRC authorities’ beatings and detentions of Kadeer’s sons, even during the staff delegation’s visit in Urumqi.<sup>39</sup> In the 110<sup>th</sup> Congress, the House passed **H.Res. 497** (Ros-Lehtinen), noting that the PRC has manipulated the campaign against terrorists to increase cultural and religious oppression of the Muslim Uighur people and has detained and beaten Rebiya Kadeer’s children. Passed on September 17, 2007, the resolution urged the PRC to protect the rights of the Uighurs, release Kadeer’s children, and release a Canadian of Uighur descent, Huseyin Celil, who was denied access to Canadian consular officials. On May 22, 2008, Senator Sherrod Brown introduced the similar bill in the Senate, **S.Res. 574**. On July 11, Representatives Jim McGovern and Frank Wolf, Co-Chairs of the Congressional Human Rights Caucus, “strongly condemned” China’s pre-Olympic crackdown on Uighurs, with the convictions two days earlier of 15 Uighurs (and immediate executions for two, suspended death sentences for three, and life imprisonment for the remaining 10).

In June 2007, President Bush met with Kadeer in Prague and criticized the PRC’s imprisonment of her sons.<sup>40</sup> In July 2008, before going to the Olympic Games in Beijing in August, Bush addressed religious freedom and honored Uighur Muslims, Christians, and Tibetan Buddhists seeking religious freedom in China. He also met at the White House with five advocates for freedom in China, including Kadeer. Bush told her that he would seek the release of her two imprisoned sons.<sup>41</sup>

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<sup>37</sup> James Kelly, Assistant Secretary of State for East Asian and Pacific Affairs, “U.S.-East Asia Policy: Three Aspects,” Woodrow Wilson Center, Washington, December 11, 2002; Lorne Craner, Assistant Secretary of State for Democracy, Human Rights, and Labor, “The War Against Terrorism and Human Rights,” speech in Urumqi, December 19, 2002.

<sup>38</sup> When Kadeer was arrested, she simply was going to meet one CRS analyst in Urumqi.

<sup>39</sup> Dennis Halpin and Hans Hogrefe, “Findings of Staff Delegation Visit to Urumqi, PRC, May 30-June 2, 2006,” Memorandum to Chairman Henry Hyde and Ranking Member Tom Lantos, October 30, 2006.

<sup>40</sup> White House, “President Bush Visits Prague, Czech Republic, Discusses Freedom,” June 5, 2007. Also: Rebiya Kadeer, “My Chinese Jailers,” *Wall Street Journal*, May 30, 2007.

<sup>41</sup> White House, “President Bush Honors the 10<sup>th</sup> Anniversary of the International Religious Freedom Act,” July 14, (continued...)

Policy options for Congress include:

- visits to Xinjiang by congressional or staff delegations;
- legislation to mandate appointment of a Special Envoy for Uighur affairs (in 1997, the House and Senate passed H.R. 1757 (ultimately not enacted) that included language on a Special Envoy for Tibet);
- legislation to mandate appointment of a Special Coordinator for Uighur affairs (Under Secretary of State for Democracy and Global Affairs also serves as the Special Coordinator for Tibetan Issues);
- calls for the Assistant Secretary of State for Democracy, Human Rights, and Labor, and other human rights officials to visit Xinjiang;
- designation of Xinjiang as occupied territory (in 1991, Congress passed P.L. 102-138, citing Tibet as an “occupied country”);
- review the Executive Branch’s designations of terrorist groups;
- resolution of the fates of Uighurs detained at Guantanamo.

## **Detained Uighurs at Guantanamo**

A related question pertains to the fate of Uighurs captured during U.S. fighting with Al Qaeda in Afghanistan and detained at Guantanamo Bay military prison since 2002. The PRC claimed them as its citizens for legal action as “suspected terrorists” and interrogated them at the prison. In May 2004, Amnesty International said that, in 2002, the United States allowed PRC officials to participate in interrogations and mistreatment of ethnic Uighurs held at Guantanamo. Then, in July 2004, Amnesty International urged the United States not to turn the 22 detained Uighurs over to China, where they would face torture and execution in China’s campaign to repress the Uighur people in the name of “counterterrorism.”<sup>42</sup> Other options have included sending them to a third country and resettling them in the United States.

Even while arguing that the United States had reason to detain the Uighurs at Guantanamo, the Executive Branch nonetheless has contended that they should be released. The Departments of Defense and State have sought a third country to accept them, rather than send them to China.

Starting in late 2003, the **Defense Department** reportedly has determined that 15 Uighurs at Guantanamo could be released, including five who were picked up because they were in the wrong place at the wrong time and 10 who were considered low-risk detainees whose enemy was the PRC government. Seven others were determined to be “enemy combatants.”<sup>43</sup> By 2004, U.S. officials told reporters that Uighurs detained at Guantanamo Bay had no more intelligence value, but the United States could not find a third country to accept them, while ruling out their return to

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2008, and “Statement by the Press Secretary on President Bush’s Meeting with Chinese Freedom Activists,” July 29, 2008; Uyghur American Association, “Rebiya Kadeer Meets with President Bush at the White House,” July 30, 2008.

<sup>42</sup> “Group Says Chinese Saw Detainees,” *Washington Post*, May 26, 2004; Amnesty International, “China: Fleeing Uighurs Forced Back to ‘Anti-Terror’ Torture and Execution,” July 7, 2004.

<sup>43</sup> Robin Wright, “Chinese Detainees are Men Without a Country,” *Washington Post*, August 24, 2005; and *Asian Wall Street Journal*, August 25, 2005.

China.<sup>44</sup> In August 2004, Secretary of State Colin Powell confirmed the dilemma and assured that “the Uighurs are not going back to China, but finding places for them is not a simple matter, but we are trying to find places for them.”<sup>45</sup> The United States has approached over 100 countries to accept the Uighurs, and the State Department reportedly had considered sending the Uighurs back to China instead of allowing them be resettled in the United States.<sup>46</sup>

On April 20, 2006, the Defense Department released a list of 558 people detained at Guantanamo, in response to a Freedom of Information Act lawsuit brought by the *Associated Press*. The list confirmed that there were 22 Uighurs with PRC citizenship being held.

On May 5, 2006, the Pentagon announced the transfer from the Guantanamo Bay prison to **Albania** of five Uighurs, all of whom had been determined to be “no longer enemy combatants” during reviews in 2004-2005. The PRC then demanded that Albania extradite to China those Uighurs as “terrorists,” but Albania refused. Their plight raised a question of whether they should be resettled in the United States or another country, rather than be confined in a camp in Albania.<sup>47</sup> Later, they reportedly found work in a snack bar making pizzas. In February 2009, Sweden awarded asylum to one of them, Adil Hakimjan, who became the first former detainee at Guantanamo to find asylum in the European Union.<sup>48</sup>

By mid-2008, Members of **Congress** and other policymakers began to grapple more urgently with the issue of whether and how to release the remaining Uighurs. Defense lawyers for the remaining 17 Uighurs held at Guantanamo Bay complained and testified to Congress that the Uighurs suffered in captivity of nearly total isolation at Camp Six.<sup>49</sup>

Also in Congress, on June 4, 2008, at a hearing of the House Foreign Affairs Subcommittee on International Organizations, Human Rights, and Oversight, the Department of Justice’s Inspector General, Glenn Fine, testified that U.S. military interrogators not only collaborated with PRC government agents to interrogate Uighurs at the prison, but that they also deprived them of sleep the night before by waking them up every 15 minutes in a treatment called the “frequent flyer program.”<sup>50</sup> The Chairman and Ranking Member, Representatives Bill Delahunt and Dana Rohrabacher, then wrote a letter to Defense Secretary Robert Gates to request that the detained

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<sup>44</sup> Guy Dinmore and James Kynge, “China Torture Fears Curb Guantanamo Releases,” *Financial Times*, June 23, 2004; and David Cloud and Ian Johnson, “In Post-9/11 World, Chinese Dissidents Pose U.S. Dilemma,” *Wall Street Journal*, August 3, 2004.

<sup>45</sup> Secretary Colin Powell, “Roundtable with Japanese Journalists,” August 12, 2004.

<sup>46</sup> Demetri Sevestopulo, “U.S. Fails to Find Countries to Take Uighurs,” *Financial Times*, October 28, 2004; “Uighurs Face Return to China from Guantanamo,” *Financial Times*, March 16, 2005; “Detention Dilemma,” *Washington Post* (editorial), May 3, 2005; Josh White and Robin Wright, “Detainee Cleared for Release is in Limbo at Guantanamo,” *Washington Post*, December 15, 2005; Neil Lewis, “Freed From Guantanamo but Stranded Far From Home,” *New York Times*, August 15, 2006; Josh White, “Lawyers Demand Release of Chinese Muslims,” *Washington Post*, December 5, 2006.

<sup>47</sup> Tim Golden, “Chinese Leave Guantanamo for Albanian Limbo,” *New York Times*, June 10, 2007; Jonathan Finer, “After Guantanamo, An Empty Freedom,” *Washington Post*, October 17, 2007.

<sup>48</sup> “Sweden Grants Asylum to Former Guantanamo Detainee,” *Associated Press*, February 18, 2009; “Guantanamo Story,” *Spiegel Online*, April 17, 2009; Ritt Goldstein, “Swedish Court Secures Ex-Guantanamo Uighur’s Asylum Quest,” *Christian Science Monitor*, April 30, 2009.

<sup>49</sup> R. Jeffrey Smith and Julie Tate, “Uighurs’ Detention Conditions Condemned,” *Washington Post*, January 30, 2007; Sabin Willett (lawyer for a detainee, Huzaifa Parhat), testimony before the House Foreign Affairs Subcommittee on International Organizations, Human Rights, and Oversight, May 20, 2008.

<sup>50</sup> House Foreign Affairs Subcommittee on International Organizations, Human Rights, and Oversight, hearing on the FBI’s role at Guantanamo Bay prison, June 4, 2008.

Uighurs promptly be transferred and paroled into the United States. The Members noted that the transfer would not automatically grant asylum, another option for policymakers.<sup>51</sup>

On July 30, 2008, Under Secretary of Defense for Policy Eric Edelman responded to the letter of June 19, 2008, to Secretary of Defense Robert Gates from Representatives Delahunt and Rohrabacher. Edelman wrote in his letter that “many” of the Uighurs detained at Guantanamo received “terrorist training” at a camp run by ETIM, but he nonetheless stressed that the Departments of State and Defense “aggressively” have asked many other countries to accept those same detainees. He wrote that:

All of the Uighurs currently detained at Guantanamo were captured in the course of hostilities. Many of the Uighur detainees at Guantanamo received terrorist training at a camp run at the time by the Eastern Turkistan Islamic Movement (ETIM), a terrorist organization that received funding from Al Qaeda, or have stated that they are members of the organization itself. ETIM is on the State Department’s Terrorist Exclusion List and was designated a terrorist organization under Executive Order 13224, “Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism.” There is therefore no current plan to parole Uighur detainees from Guantanamo into the United States. However, the Departments of State and Defense have aggressively approached more than 100 countries to accept the Uighur detainees at Guantanamo, and continue to seek a country that would accept transfer of the Uighurs. To date, only Albania has agreed to accept any and five were transferred there in 2006.<sup>52</sup>

In contrast, in October 2008, Senator Lindsey Graham, sponsor of S. 3401, the Enemy Combatant Detention Review Act, argued that while the Uighurs’ case was “exceptional,” their release in the United States would be a “dangerous precedent” and that detainees waiting release should be transferred to another country.<sup>53</sup>

At the start of the Obama Administration, on February 2, 2009, Defense Secretary Robert Gates signed a memorandum, on the review of the Defense Department’s compliance with President Obama’s “Executive Order on Review and Disposition of Individuals Detained at Guantanamo Bay Naval Base and Closure of Detention Facilities,” dated January 22, 2009.<sup>54</sup> Adm. Patrick Walsh, Vice Chief of Naval Operations, led the Defense Department team that conducted the review. Concerning the Uighurs still detained at Guantanamo, the review concluded that:

Not knowing when they might depart Guantanamo (for home or elsewhere) has almost certainly increased tension and anxiety within the detainee population. This tension is further exacerbated in one particular population—the Chinese [sic] Uighurs. For several years, the [Department of Defense] and the State Department have been struggling to transfer 17 Chinese [sic] Uighur detainees from Guantanamo to a suitable third country. Due to U.S. obligations, the U.S. cannot send them back to China. Recent court rulings increased the pressure to move these detainees out of Guantanamo as soon as a suitable third country has been selected. In addition to the Chinese [sic] Uighurs, there are now two additional detainees (Algerian, but captured in Bosnia) that the court has ordered to be released from U.S. custody. All these detainees are now housed in Camp Iguana, a holding camp that

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<sup>51</sup> Bill Delahunt and Dana Rohrabacher, letter to Robert Gates, June 19, 2008.

<sup>52</sup> Eric Edelman, letter to Bill Delahunt and Dana Rohrabacher, July 30, 2008.

<sup>53</sup> Lindsey Graham, “A Dangerous Precedent,” *USA Today*, October 14, 2008.

<sup>54</sup> Defense Department, “Review of Department Compliance With President’s Executive Order on Detainee Conditions of Confinement,” issued February 23, 2009.

provides the greatest amount of freedom for the detainees while ensuring continued camp and U.S. naval base security. Despite increased freedoms at Camp Iguana, the detainees there continue to vocally and physically express their extreme frustration with their continued detention at Guantanamo. Therefore, the Review Team requests that emphasis be placed on providing immediate assistance within the interagency process on where to transfer these detainees (especially those currently housed in Camp Iguana).

Later, at a hearing of the Senate Appropriations Committee in late April 2009, Defense Secretary Robert Gates confirmed to Congress that the Administration has considered taking in some but probably not all of the 17 Uighur detainees because of worry that they would be “persecuted” if they go to China and because it is “difficult for the State Department to make the argument to other countries they should take these people that we have deemed, in this case, not to be dangerous, if we won’t take any of them ourselves.”<sup>55</sup>

Meanwhile, concerning the possible resettlement of the detained Uighurs in the United States, Senator Mitch McConnell stated that “the question remains, as it does with all detainees held at Guantanamo: does their release make America safer? Surely, the Administration will not release these terrorist-trained detainees onto the streets of a U.S. community before providing to Congress the legal rationale for doing so, and a guarantee of safety for American citizens.”<sup>56</sup> In the House, on May 1, Representative Frank Wolf wrote a letter to President Obama expressing concern that release of the Uighur detainees to the United States “could directly threaten the security of the American people.” Wolf asked the President to declassify all intelligence regarding their capture, detention, and assessment of the threat that they might pose to Americans, before any decision to release them. Three days later, Wolf stated that it is “unacceptable” for the President to release the Uighur detainees to the United States without first briefing Congress.<sup>57</sup>

On May 7, 2009, Representative John Boehner introduced **H.R. 2294**, the “Keep Terrorists Out of America Act.” It would seek to oppose transfers of any detainees from Guantanamo to the United States and require approval from the recipient state’s governor and legislature as well as presidential certification to Congress concerning the destinations of transfers, continued prosecution and detention of detainees, and authority of federal courts to release them into the United States.

In the **Courts**, on June 12, 2008, the Supreme Court granted habeas corpus rights to detainees at Guantanamo and ruled that challenges to their detentions be moved to a civilian federal court. Then, undermining the evidence accusing Uighurs, on June 20, 2008, the U.S. Court of Appeals for the District of Columbia Circuit decided that in the case of Huzaifa Parhat, the Combatant Status Review Tribunal’s determination of him as an “enemy combatant” was not valid.<sup>58</sup> The U.S. Court of Appeals ordered the United States Government to release Parhat, to transfer him, or to expeditiously convene a new Tribunal to consider evidence submitted in a manner consistent with the court’s opinion. In reviewing the evidence, the Court of Appeals found that:

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<sup>55</sup> Senate Appropriations Committee, Hearing on Proposed Budget Estimates for the Fiscal 2009 War Supplemental, April 30, 2009.

<sup>56</sup> Mitch McConnell, “Releasing Guantanamo Detainees Into the U.S. Will Not Make America Safer,” April 24, 2009.

<sup>57</sup> Frank Wolf, letter to President Barack Obama, May 1, 2009; “Floor Statement of Rep. Frank Wolf on Potential Release of Uyghurs Held at Guantanamo Bay into the United States,” May 4, 2009.

<sup>58</sup> U.S. Supreme Court, *Boumediene v. Bush*, June 12, 2008; and U.S. Court of Appeals, *Huzaifa Parhat v. Robert Gates*, decided June 20, 2008.

Parhat is an ethnic Uighur, who fled his home in the People’s Republic of China in opposition to the policies of the Chinese government. It is undisputed that he is not a member of al Qaida or the Taliban, and that he has never participated in any hostile action against the United States or its allies. The Tribunal’s determination that Parhat is an enemy combatant is based on its finding that he is “affiliated” with a Uighur independence group, and the further finding that the group was “associated” with al Qaida and the Taliban. The Tribunal’s findings regarding the Uighur group rest, in key respects, on statements in classified State and Defense Department documents that provide no information regarding the sources of the reporting upon which the statements are based, and otherwise lack sufficient indicia of the statements’ reliability. Parhat contends, with support of his own, that the Chinese government is the source of several of the key statements.

Then, on September 30, 2008, the Justice Department conceded in a filing at the U.S. District Court for the District of Columbia that all of the 17 remaining Uighur detainees were “no longer enemy combatants.” The Justice Department notified that the status of the remaining 12 Uighur detainees will be “put into the same category” as the five original petitioners, including Parhat, who challenged their status as “enemy combatants.”<sup>59</sup> In response, on October 1, the Uighurs’ counsels submitted a memorandum to the District Court, contending that the concession ended any question about each Uighur’s “non-combatant status” (in contrast to the Justice Department’s use of “no longer enemy combatants”). The counsels argued that the Justice Department conceded that it will not contest what the Uighurs have asserted since 2005: that none of them is an enemy combatant.<sup>60</sup> (As the U.S. Court of Appeals for the D.C. Circuit later noted on February 18, 2009, “the government saw no material differences in its evidence against the other Uighurs, and therefore decided that none of the petitioners should be detained as enemy combatants.”)

Then, at a hearing on October 7, Judge Ricardo Urbina ordered the release of the Uighurs into the United States, saying that “because the Constitution prohibits indefinite detention without cause, the Government’s continued detention of Petitioners is unlawful.” The Uighurs’ attorneys sought their release, particularly with assistance in resettlement offered by a Uighur community in the Washington, DC, area and by a Christian, Muslim, and Jewish religious community in Tallahassee, FL. One of their lawyers said that they should not be detained “just because it’s politically expedient,” while the Bush White House argued against setting a “precedent” for other detainees suspected of planning the 9/11 attacks.<sup>61</sup> On the day of the release order, the PRC branded the detainees as suspected “terrorists” and demanded that they be handed over to Beijing.

The next day, on October 8, the U.S. Court of Appeals for the District of Columbia Circuit temporarily blocked the order to release the Uighurs, as requested by the Justice Department which argued that they had received “military training.” However, this claim about a danger undermined the State Department’s efforts to find a country to accept the Uighurs as not dangerous, and Ambassador-At-Large Clint Williamson had to cancel an imminent diplomatic trip.<sup>62</sup> On October 20, the Court of Appeals granted the Justice Department’s request for a stay of the order to release the Uighurs, in a 2-1 decision. In her dissent, Judge Judith Rogers wrote that

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<sup>59</sup> U.S. District Court for the District of Columbia, Notice of Status, September 30, 2008.

<sup>60</sup> U.S. District Court for the District of Columbia, “Petitioners’ Supplemental Memorandum in Response to Government’s Notice of Status,” October 1, 2008.

<sup>61</sup> Statements quoted by Del Quentin Wilber, “Uighur Detainees May be Released to U.S.,” *Washington Post*, October 5, 2008; and William Glaberson, “Judge Orders 17 Detainees at Guantanamo Freed,” *New York Times*, October 8, 2008.

<sup>62</sup> William Glaberson, “Release of 17 Guantanamo Detainees Sputters As Officials Debate the Risk,” *New York Times*, October 16, 2008.

“the fact that petitioners received firearms training cannot alone show they are dangerous, unless millions of United States resident citizens who have received firearms training are to be deemed dangerous as well.”<sup>63</sup> The Court of Appeals heard arguments on November 24, 2008.

On February 18, 2009, the three-judge U.S. Court of Appeals for the D.C. Circuit reversed Judge Urbina’s order to release the Uighurs to the United States.<sup>64</sup> As part of the summary of the legal situation of the Uighur detainees, the Court wrote:

In the Parhat case, the court ruled that the government had not presented sufficient evidence that the Eastern Turkistan Islamic Movement was associated with al Qaida or the Taliban, or had engaged in hostilities against the United States or its coalition partners. Parhat therefore could not be held as an enemy combatant. The government saw no material differences in its evidence against the other Uighurs, and therefore decided that none of the petitioners should be detained as enemy combatants. Releasing petitioners to their country of origin poses a problem. Petitioners fear that if they are returned to China they will face arrest, torture or execution. United States policy is not to transfer individuals to countries where they will be subject to mistreatment. Petitioners have not sought to comply with the immigration laws governing an alien’s entry into the United States. Diplomatic efforts to locate an appropriate third country in which to resettle them are continuing. In the meantime, petitioners are held under the least restrictive conditions possible in the Guantanamo military base. As relief in their habeas cases, petitioners moved for an order compelling their release into the United States.

Two of the judges, Karen Henderson and Raymond Randolph ruled that Urbina overstepped his authority. The judges argued that the courts do not have the authority to review the determination of the Executive Branch to prevent the 17 Uighurs from entering the country. Judge Randolph wrote that “the question here is not whether petitioners should be released, but where.” While concurring, Judge Judith Rogers declared that the District Court erred in granting release prematurely without first ascertaining whether immigration laws provided a valid basis for detention of the Uighurs. Then, on April 6, 2009, the Uighurs appealed to the Supreme Court.

## Olympic Security and Violent Incidents

There was congressional concern about whether China’s tight security at the Olympic games in Beijing on August 8-24, 2008, would result in internal repression (including human rights dissidents, Uighurs, Tibetans) or harm to safety of American citizens (including those targeted by China for expressing concerns about Tibet, Darfur, Falungong, Taiwan, Burma, North Korean refugees, Xinjiang, etc.). U.S. officials and private firms (even major U.S. Olympic sponsors) faced difficulty in getting the PRC’s plans for Olympic security. One policy implication concerns whether to support or oppose holding future international events in China.

In 2007, the PRC government reportedly intensified intelligence gathering of foreigners whom it suspected as protesting its policies in a range of areas, including various non-governmental organizations (NGOs).<sup>65</sup> Issues concerned the U.S. role, including how the State Department should warn and protect U.S. citizens who travel to Beijing. On April 30, 2008, the State

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<sup>63</sup> U.S. Court of Appeals (DC Circuit), *Jamal Kiyemba, Next Friend, et al. v. George W. Bush*, October 20, 2008.

<sup>64</sup> U.S. Court of Appeals (D.C. Circuit), *Jamal Kiyemba, Next Friend, et al. v. Barack Obama, et al.*, February 18, 2009.

<sup>65</sup> Charles Hutzler, “China Gathering Intelligence on Activists It Thinks Might Disrupt 2008 Olympics,” *Associated Press*, July 23, 2007.

Department issued a general “travel alert” to advise U.S. citizens that “any large-scale public event such as the upcoming Olympic Games may present an attractive target for terrorists. There is a heightened risk that extremist groups will conduct terrorist acts within China in the near future.” However, while U.S. intelligence was concerned about PRC compromise of electronic equipment, like computers and cellphones, that Americans would bring to the Games (or other times), the State and Commerce Departments reportedly declined to issue a strong warning.<sup>66</sup> On July 30, 2008, Senator Sam Brownback introduced **S.Res. 633** on China’s pre-Olympic clampdown, to express the sense of the Senate on the deterioration of respect for privacy and human rights.

Another question concerned the U.S. stance on the PRC’s clampdown on security with greater repression before and during major events. Some were concerned about President Bush’s attendance at the Olympic Games, involving the message it sent and any pretext for China’s claimed need to tighten internal security for Bush’s presence. U.S. policymakers knew about the PRC’s record of rounding up dissidents, peaceful protestors, and other “undesirables” ahead of and during major international events, including presidential summits. When President Bush visited Beijing on November 20, 2005, accompanying Secretary of State Condoleezza Rice acknowledged reports about crackdowns by the PRC’s security forces on religious figures (with house arrests and detentions) in the days ahead of Bush’s visit. Rice said that the U.S. side would raise those concerns “vociferously” with the PRC government.<sup>67</sup> On February 28, 2008, President Bush said he would raise concerns about human rights and religious freedom in China with its ruler Hu Jintao and at the same time “enjoy a great sporting event” as a “sports fan.”<sup>68</sup>

As preparations intensified for the summer Olympics in Beijing, another issue concerned the extent to which the United States, including the military, should cooperate with the PLA or the paramilitary PAP, given concerns about China’s internal repression surrounding international events. In March 2007, the PRC Minister of Public Security called for striking hard at “hostile forces” of “ethnic separatism, religious extremism, and violent terrorism” and “evil cults” like the Falungong to have “stability” for the Olympic games. A precedent was set in 2004, when various U.S. departments, including the Department of Defense, provided security assistance for the Olympic games in Athens, Greece, in 2004.<sup>69</sup> On June 22, 2006, at a hearing of the House Armed Services Committee, Brigadier General John Allen, Principal Director for Asian and Pacific Affairs, told Congress that the Defense Department might work with China on security cooperation for the Olympics. However, a year later, Deputy Under Secretary of Defense Richard Lawless testified to the House Armed Services Committee on June 13, 2007, that China did not accept assistance from the Defense Department for Olympic security.

In the lead-up to the Olympic Games, there was no clarity or confirmation about the PRC’s claims of terrorist threats in China. The PRC regime has tended to selectively target violent incidents involving Uighurs and Tibetans as “terrorism” but not other violent attacks committed

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<sup>66</sup> Siobhan Gorman, “U.S. Fears Threat of Cyberspying at Olympics,” *Wall Street Journal*, July 17, 2008.

<sup>67</sup> White House, Press Briefing by Secretary of State Condoleezza Rice on the President’s Visit to China, Beijing, November 20, 2005.

<sup>68</sup> President George Bush, press conference, February 28, 2008.

<sup>69</sup> Such assistance included an anti-terrorism exercise held by the European Command in March 2004; exercise scenarios created by the Defense Threat Reduction Agency to defend against weapons of mass destruction; imagery collected by the National Geospatial-Intelligence Agency; and defensive barriers and facilities set up by deployed U.S. naval forces. See GAO, “Olympic Security: U.S. Support to Athens Games Provides Lessons for Future Olympics,” May 2005.

by Hans (ethnic Chinese people). After a Tibetan riot and security crackdown in Lhasa in March 2008, the PRC called the Tibetan Youth Congress “terrorist.”<sup>70</sup>

In 2007, just as PRC preparations and propaganda for Olympic security intensified, the PRC claimed that on January 5, police destroyed a “terrorist training camp” run by ETIM in Xinjiang near the border with Pakistan, killed 18 “terrorists,” and captured 17 others (who were later sentenced to death, suspended death sentences, or life imprisonment). However, the civilian Public Security police reportedly carried out the action, not the paramilitary People’s Armed Police (PAP). Visiting Beijing in June 2007, FBI Assistant Director for International Operations Thomas Fuentes said that the FBI was still assessing the validity of the PRC’s claims about the terrorist threat.<sup>71</sup> The State Department reported that there were no acts of international terrorism in China in 2002, 2003, 2004, 2005, 2006, or 2007. The National Counterterrorism Center under the Director of National Intelligence did not report any terrorist attacks in the PRC in 2007. “Terrorism” was defined as “premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents.”<sup>72</sup>

The next year, the PRC claimed that police in January 2008 raided a house in Urumqi in Xinjiang, killing two people and capturing 15 others who were Uighur separatists carrying out “terrorist acts.” Despite calling them “terrorists,” the Xinjiang police found only axes, books, and knives (which are common traditional items in Uighur culture).<sup>73</sup> Again, the PAP was not involved in this reported raid by the civilian police. The U.S.-based Uyghur American Association called for an independent investigation of those claims and defended efforts of the Uighur people as peaceful. A reporter who visited the site of the raid in April found residents of the apartment building who reported that nothing dramatically dangerous had happened.<sup>74</sup> Then, in March 2008, the PRC claimed that a Uighur woman was an “East Turkestan element” who tried to blow up a plane flying from Urumqi to Beijing. A news article in New Delhi reported that the incident had a connection to terrorists in Pakistan, but the sophistication of that attempt remained disputable.<sup>75</sup> Also in March, soon after riots in Tibet, hundreds protested in the southern Xinjiang city of Khotan after police returned the body of a Uighur man who died in custody.<sup>76</sup>

However, just the next month in April, the city of Urumqi (including the airport and railroad station) and flights between Urumqi and Beijing were generally calm without stringent security. A few civilian policemen carried sub-machine guns, and the airport banned small bottles of shampoo and other liquids in carry-on bags.

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<sup>70</sup> *Xinhua*, April 27, 2008.

<sup>71</sup> Daniel Schearf, “U.S. Federal Bureau of Investigations Seeks Further Cooperation with China,” *VOA News*, June 13, 2007.

<sup>72</sup> State Department, “Country Reports on Terrorism,” annual reports; and National Counterterrorism Center, “2007 Report on Terrorism,” April 30, 2008.

<sup>73</sup> *Xinhua* and *Huanqiu Shiba*, February 18, 2008; *China Daily*, February 19, 2008; “Terrorist Attack Prevented for Olympics: Official,” *Xinhua*, March 9, 2008.

<sup>74</sup> Dan Martin, “Residents Dispute PRC Official Account of Raid on Xinjiang Terrorists in January,” *AFP*, April 8, 2008.

<sup>75</sup> Xinjiang Communist Party Secretary Wang Lequan quoted by *Zhongguo Tongxun She*, March 20, 2008; and Praveen Swami, “China’s Mid-Air Terror Trail Leads to Pakistan,” *Hindu*, March 22, 2008.

<sup>76</sup> *Radio Free Asia*, April 1, 2008; *AFP*, April 2, 2008.

In June 2008, the Olympic torch relay went through Xinjiang without terrorism, while there were security crackdowns in Xinjiang that prompted an attack on at least one police station.<sup>77</sup> In July, PRC and Hong Kong media reported tightened security checks for roads, railways, and airports throughout Xinjiang, amid a claimed need to protect the Olympics. Uighurs complained of racial profiling that targeted them at the airport or train station and that confiscated their passports to ban traveling.<sup>78</sup>

On July 9, 2008, official PRC media asserted in an English report that the police killed and arrested criminals in Xinjiang who were in a “holy war” training group. However, the original Chinese-language news article in Urumqi called them criminals and did not refer to any terrorist connections. On the same day, Uighur sources reported that the PRC regime forced about 10,000 Uighurs in Kashgar (Kashi) to watch a mass sentencing and execution rally.<sup>79</sup> On July 10, Urumqi’s local Public Security officials claimed that they had cracked five “terrorist groups” and detained 82 “terrorists” in the first six months of 2008. On July 14, the local police in Kashi in Xinjiang claimed that they had eliminated 12 “terrorist” gangs.

Nevertheless, the PRC regime downplayed ostensible terrorist threats in videos posted on the Internet in 2008, citing Uighur grievances in China and targeting the Olympic Games. On June 26, 2008, a video was posted on YouTube with a message in Uighur threatening violence at the Olympic Games in Beijing issued under the name of the Turkistan Islamic Party (TIP), which could be ETIM, by a masked and armed man calling himself Seyfullah. However, instead of citing this to bolster its claims about the Uighurs, the PRC did not play up the development. Only a PRC official media report on July 3 cited a Vice Minister of Public Security as mentioning an “East Turkistan” threat on the Internet. Uighur leader Rebiya Kadeer reacted by supporting peaceful and successful Olympic Games in Beijing.<sup>80</sup> Again on July 25, TIP leader Seyfullah posted another video, claiming credit for bus bombings in cities in China from May to July and trying to stop the Olympic Games. Contrary to its usual hyping of an “East Turkestan” terrorist threat, the PRC government and its experts promptly denied the TIP leader’s claims.<sup>81</sup> In another YouTube video dated August 1, a man identified as the head of TIP’s Religious Education Department, Abdullah Mensur, warned Muslims against going to the Olympics in Beijing.

In those other bombings outside of Xinjiang, the PRC did not call them “terrorist” acts. On May 5, a bus exploded in Shanghai, killing three people. PRC authorities did not call the violent incident a “terrorist attack” and minimized the media’s reporting.<sup>82</sup> On July 2, a man caused an explosion at a government office in Hunan province that injured 12 people, reported as “revenge.”<sup>83</sup> On July 21, bombs exploded in two buses in Kunming city in Yunnan province, killing two people. The PRC Public Security authorities called the incident “sabotage,” not terrorism.<sup>84</sup>

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<sup>77</sup> AFP, June 6, 2008; Reuters, June 16 and 17, 2008; AFP, June 19, 2008.

<sup>78</sup> Xinhua, July 29, 2008; AFP, July 31, 2008.

<sup>79</sup> Uyghur American Association, “Five Uyghurs Killed in Raid in Urumchi; Uyghurs Executed in Kashgar After Mass Sentencing Rally,” July 10, 2008.

<sup>80</sup> Uyghur American Association, “Rebiya Kadeer Expresses Her Wish for a Peaceful Beijing Olympics and Urges Beijing to Cease its Harsh Repression of Uyghurs,” July 18, 2008.

<sup>81</sup> Xinhua, July 26, 2008; Zhongguo Xinwen She, July 28, 2008.

<sup>82</sup> Xinhua, AFP, May 5, 2008; PRC Foreign Ministry news conference, May 6, 2008.

<sup>83</sup> Xinhua, July 2, 2008; South China Morning Post, July 3, 2008.

<sup>84</sup> Xinhua, July 21, 2008; Zhongguo Xinwen She, July 22, 2008.

Then, on August 4, four days before the start of the Olympics in Beijing, in the western-most city of Kashgar (Kashi) in Xinjiang, two men drove a truck into a group of PAP Border Security Guards and threw two bombs, killing 16 of them. Immediately, PRC official media reported the violent incident as “suspected terrorism” and raised an alleged connection to “East Turkistan” terrorists. The police said they caught two Uighur men from Kashi, a vegetable vendor and taxi driver, who were found with “home-made” bombs, a hand-gun, and knives, and were waging a “holy war.” Kashi’s Communist Party Secretary said on August 5 that the incident was a premeditated “terrorist attack.” However, the director of Xinjiang’s Public Security Department said that the police did not have proof that a terrorist organization like ETIM was responsible for the incident. He also had to apologize to two Japanese journalists trying to cover the incident whom PAP guards detained and beat in a hotel, prompting Japan’s diplomatic protest.<sup>85</sup> Foreign eye-witnesses reported that the attackers wore the same PAP uniforms as the security personnel.<sup>86</sup>

On August 10, according to PRC media, 15 male and female assailants exploded a series of home-made bombs in the town of Kuqa in Xinjiang that targeted the Public Security Bureau, government offices, and businesses. The bombs killed one security guard and one Uighur bystander. The police again prevented foreign news about what occurred by detaining Japanese reporters and deleting their photographs.<sup>87</sup> Then, two days later, on August 12, attackers stabbed to death three guards at a security checkpoint at Yamanya town near Kashgar, where an attack occurred on August 4. The authorities responded with police and paramilitary manhunts.

On August 13, the PRC Foreign Ministry quickly blamed “East Turkistan” forces even while reporting that the incidents were still under investigation. A PRC government intelligence-related analyst speculated to the media that the threats increased in Xinjiang.

However, these attacks were not the first time that coordinated multiple bombings occurred, that crude home-made bombs were used, that women allegedly were involved, or that suicide bombers committed the alleged acts. Such events were reported in the 1990s. Moreover, the three attacks in Xinjiang in August 2008 killed 21 people and targeted primarily security forces and not civilians, contrary to the bombings in 1997 in Urumqi and earlier in 2008 in Shanghai and Kunming.

In the violent incidents in 2008, the first reported bombings in Xinjiang since 1997, a critical factor could be the Taliban’s resurgence in Pakistan and Afghanistan since mid-2006 that radicalized some disaffected Uighurs in that border area.<sup>88</sup> Many multinational militants have been known to operate in the area that also borders Xinjiang. Since 1997, if not earlier, Pakistani militants crossing into China have raised concerns in Beijing.<sup>89</sup> During the Olympic Games in 2008, the PRC arrested 35 Pakistanis accused of planning to attack the Games, which the Foreign Ministry did not deny.<sup>90</sup> After the Olympics, in the spring of 2009, the PRC government, including Minister of Public Security Meng Jianzhu, asserted to Pakistan’s President Asif Ali Zardari that ETIM has its “military headquarters” in Pakistan’s tribal areas and “is planning to

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<sup>85</sup> *Xinhua, AFP*, August 4, 2008; *Kyodo, Xinhua*, August 5, 2008.

<sup>86</sup> *AFP*, August 5, 2008; *New York Times*, September 29, 2008 (also published pictures).

<sup>87</sup> *AFP*, August 13, 2008.

<sup>88</sup> On the Taliban resurgence, see CRS Report RL30588, *Afghanistan: Post-Taliban Governance, Security, and U.S. Policy*, by Kenneth Katzman; and Ahmed Rashid, “A Taliban Comeback?”, *YaleGlobal*, May 23, 2006.

<sup>89</sup> Matt Forney, “Uighur Fire,” *Far Eastern Economic Review*, February 27, 1997.

<sup>90</sup> *Daily Times* (Lahore) and PRC Foreign Ministry news conference, August 20, 2008.

attack China on the 60<sup>th</sup> anniversary celebration of the communist revolution in October,” according to Pakistani politician Mushahid Hussain. Moreover, Pakistan reportedly extradited to China nine alleged “militants” from Xinjiang who were arrested in Pakistan’s Federally Administered Tribal Areas (FATA).<sup>91</sup>

Alternatively, it was also possible that PRC security precipitated unrest in Xinjiang ahead of August 2008 for a pre-Olympic crackdown, similar to a suspected strategy employed in Tibet surrounding the March 2008 riots, so as not to upset its determined “successful” Olympics. PRC officials have cited the use of “preemptive strikes” in “stability maintenance” in Xinjiang. The violence also could have been reactions to the pre-Olympic security crackdowns that raised resentment. Some Uighurs might have taken advantage of the Games to publicize their plight.

Despite the Internet videos and incidents in Xinjiang, the Olympics took place on August 8-24, 2008, with no violence against the Games in Beijing. In the lead-up to the Games with increasing voices opposing PRC policies, some were concerned that the PRC would not be able to effectively maintain control and security at the Olympic Games. Nevertheless, as the PRC authorities severely tightened security around China, the regime showed a greater likelihood in over-reacting to any disturbances, even peaceful protests, by foreigners or PRC citizens. The PRC deployed immense security forces comprised of the military (PLA), paramilitary People’s Armed Police (PAP), and civilian police and totaling 110,000 to tighten control. Those PLA forces include ground, air, and naval units. Indeed, while the PRC authorities exercised initial restraint against domestic and foreign protesters (who advocated for a free Tibet), agents violently beat up and detained some foreign reporters. In addition to the above-mentioned beatings and detentions by security forces of Japanese reporters in Xinjiang, PRC police beat up or forcefully detained Hong Kong reporters covering a sale of Olympic tickets in late July plus British and U.S. journalists covering pro-Tibet protests during the Games.<sup>92</sup>

On October 21, 2008, the PRC’s Ministry of Public Security (MPS) issued its second list of alleged terrorists belonging to ETIM (after the first in December 2003), seeking to capture in China or abroad eight Uighurs wanted for having plotted “terrorist attacks” against the Olympic Games. Three days later, a video was posted to YouTube that identified itself as a message from TIP with a still picture of “Military Commander Seyfullah.” The message in Uighur rebutted the MPS’ charges, questioning the accuracy of the identification of suspects and defending the East Turkistan Muslim’s “jihad” against “Chinese Communist invaders.”<sup>93</sup>

On April 9, 2009, PRC authorities in Kashi, Xinjiang, executed two local Uighur men for the alleged attack on August 4, 2008, with their death sentence publicly announced to about 4,000 people assembled in a stadium followed by their execution out of public view. The official news media’s report did not mention the ETIM organization in declaring their execution.<sup>94</sup>

In its report on terrorism in 2008, the National Counterterrorism Center under the Director of National Intelligence reported that China was one of the countries that experienced their first

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<sup>91</sup> *Independent* (London), April 8, 2009. On April 9, PRC official media, *Zhongguo Tongxun She* [China News Agency] cited this article as reporting that China asked Pakistan to crack down on ETIM. *Geo TV* (Karachi), April 27, 2009.

<sup>92</sup> *Wall Street Journal*, July 26; *London Paper*, August 13; *AFP*, August 22, 2008.

<sup>93</sup> “China Identifies Alleged ‘Eastern Turkistan’ Terrorists,” *Xinhua*, October 21, 2008; and “TIP Bayanati,” dated October 23 and posted on October 24, 2008, translated by OSC.

<sup>94</sup> *Xinhua*, April 9, 2009.

“high-fatality attack” perpetrated by Sunni extremists, based on data since 2004. Also, authors of the report included the incident on August 4, 2008, in Kashi, Xinjiang, as one of the worldwide “high-fatality terror attacks.” The report noted that “no group claimed responsibility, although it was widely reported that the East Turkistan Islamic Movement (ETIM) was responsible.”<sup>95</sup>

## **Sanctions on Exports of Arms and Security Equipment**

There has been congressional oversight of sanctions banning the export of crime control equipment to China. The President has the options of selectively or permanently waiving sanctions imposed after the 1989 Tiananmen Crackdown (Section 902 of the Foreign Relations Authorization Act for FYs 1990 and 1991, P.L. 101-246), which deny exports of defense articles/services (including helicopters), crime control equipment, and satellites. President Bush issued a waiver of those sanctions on January 9, 2002 (to export a bomb containment and disposal unit for the Shanghai fire department to prevent terrorist bombings) and again on January 25, 2002 (to consider export licenses for equipment to clean up chemical weapons in China left by Japan in World War II).

More presidential waivers were considered for exports of equipment for the Olympic games in Beijing in August 2008, but there were concerns about contributing to China’s internal repression. In May 2005, China held its first exhibition on counterterrorism equipment, and over 200 U.S. and other foreign companies displayed their arms and equipment.<sup>96</sup> At a hearing of the Congressional-Executive Commission on China (CECC) on February 27, 2008, its chairman, Representative Sander Levin, expressed concerns that “any high-technology surveillance equipment will be left in the hands of China’s public security and state security organ, who may use them to monitor political activists, religious practitioners, and members of certain ethnic minority groups.”<sup>97</sup> The Bush Administration reportedly approved the export of sensitive equipment and expertise to PRC security and PLA forces (for which no presidential waiver was needed, according to the State Department). The equipment included that used to detect explosives and radiation. Also, the Energy Department’s National Nuclear Security Administration sent a Nuclear Emergency Support Team (NEST) to China to help in detection of a radiological bomb.<sup>98</sup> On June 30, 2008, President Bush notified Congress that he waived temporarily the sanction on munitions exports to allow athletes in shooting competitions to bring firearms and U.S. film crews to bring mobile high definition television camera systems with military gyroscopes to the Olympic Games, after which the equipment would be returned to the United States.

## **Weapons Nonproliferation**

In his 2002 State of the Union speech, President Bush stressed the twin threats of terrorism and weapons proliferation, indicating a strong stance on proliferation problems with the PRC and

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<sup>95</sup> National Counterterrorism Center, “2008 Report on Terrorism,” April 30, 2009 (unclassified).

<sup>96</sup> China’s official *Xinhua* news agency, May 10, 2005.

<sup>97</sup> Congressional-Executive Commission on China, hearing on the Impact of the 2008 Olympic Games on Human Rights and Rule of Law in China, February 27, 2008.

<sup>98</sup> Bill Gertz, “China Gets U.S. Olympics Help,” *Washington Times*, June 5, 2008; Daniel Pepper, “High-noise Device for Olympics Reviewed,” *Washington Times*, June 6, 2008. Also, Bill Gertz, “U.S. Nuke Spotters Sent to China Before Games,” *Washington Times*, June 20, 2008.

others. PRC entities have reportedly transferred missile and/or chemical weapons technology to countries that the State Department says support terrorism, like Iran and North Korea. On numerous occasions, the Administration has imposed sanctions for weapons proliferation by PRC entities. However, the Administration has stressed China's cooperation at the Six-Party Talks on North Korea's nuclear weapons and at the U.N. Security Council on sanctions against Iran, rather than China's transfers.<sup>99</sup> China has not joined the Proliferation Security Initiative (PSI) announced by President Bush on May 31, 2003. In its Final Report issued on July 22, 2004, the 9/11 Commission urged that the United States encourage China (and Russia) to join the PSI, among many recommendations. The 110<sup>th</sup> Congress considered **H.R. 1**, the Implementing Recommendations of the 9/11 Commission Act of 2007. The House-passed bill of January 9, 2007, noted that the Commission called on China to participate in PSI. The Senate passed its bill on July 9 without such language. The Conference Report of July 25 adopted the House provisions on the commission's recommendations and on the sense of Congress that the President should expand and strengthen the PSI. The bill became **P.L. 110-53** on August 3, 2007.

## Port Security

The Bush Administration also sought China's cooperation in the Container Security Initiative (CSI) of U.S. Customs and Border Protection. Launched in January 2002, CSI looked at PRC ports (Shanghai and Shenzhen) among the top 20 foreign ports proposed for U.S. screening of manifests and inspections of containers before U.S.-bound shipping. On July 29, 2003, China agreed to join CSI. However, only after this U.S.-PRC agreement did the Bush Administration discuss an agreement with Taiwan to cover the last of the 20 ports: Kaohsiung. The U.S. CSI team became operational in Shanghai in April 2005, and that CSI program underwent its first six-month review by late summer. That CSI program has been compared to the CSI experience with more cooperative and efficient customs authorities in Hong Kong, cooperation that became operational in 2002.<sup>100</sup> In November 2005, the United States and the PRC signed an agreement, as part of the Megaports Initiative of the Energy Department's National Nuclear Security Administration, to install equipment at China's ports to detect nuclear and other radioactive material that could be used for nuclear weapons and "dirty bombs."

## Military-to-Military Contacts

While there have been no counterterrorism operations conducted with the PLA, the Pentagon has cautiously resumed a military-to-military relationship with China. In 2001, the Bush Administration limited contacts with the PLA after a Pentagon review started and the EP-3 aircraft collision crisis occurred. Then, for the first time under the Bush Administration, the Pentagon and the PLA again held Defense Consultative Talks (DCT) on December 9, 2002. There were visits by China's Defense Minister, General Cao Gangchuan, in October 2003 and the Chairman of the Joint Chiefs of Staff, General Richard Myers, in January 2004. Secretary of Defense Rumsfeld visited China in October 2005, the first visit by a defense secretary since William Cohen's visit in 2000 and long sought by the PLA for the resumption of a military relationship. Relevant legislation for congressional oversight includes the Foreign Relations

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<sup>99</sup> See CRS Report RL31555, *China and Proliferation of Weapons of Mass Destruction and Missiles: Policy Issues*, by Shirley A. Kan.

<sup>100</sup> Interviews with CSI teams in Shanghai and Hong Kong; CRS memo, "Congressional Staff Delegation's Visit to China, Hong Kong (August 2005), September 14, 2005, by Shirley Kan.

Authorization Act for FYs 1990-1991 (P.L. 101-246); National Defense Authorization Act for FY2000 (P.L. 106-65); and National Defense Authorization Act for FY2006 (P.L. 109-163).<sup>101</sup>

However, there is a debate about the extent to which U.S. forces should help the PLA's modernization, including through combined exercises. Some have urged caution in military cooperation with China on this front of counterterrorism, while others see benefits for the relationship with China. Senator Bob Smith and Representative Dana Rohrabacher wrote Secretary of Defense Rumsfeld in late 2001, to express concerns about renewed military contacts with China. They argued that "China is not a good prospect for counter-terrorism cooperation," because of concerns that China has practiced internal repression in the name of counterterrorism and has supplied technology to rogue regimes and state sponsors of terrorism.<sup>102</sup> In contrast, a 2004 report by Rand urged a program of security management with China that includes counterterrorism as one of three components.<sup>103</sup>

## **Shanghai Cooperation Organization (SCO)**

China has increased its influence in international counterterrorism cooperation through a Central Asian group. After the breakup of the Soviet Union in 1991, China in April 1996 sponsored a "Shanghai Five" meeting in Shanghai with Russia, Kazakhstan, Kyrgyzstan, and Tajikistan to sign an agreement on military confidence building measures. By 1998, at their meeting in Almaty, Kazakhstan, the countries added a ban on allowing the use of one's territory for activities that undermine the sovereignty, security, and social order of another. By 2000, when PLA General Chi Haotian, a Vice Chairman of the Central Military Commission, attended the first defense ministers' meeting and PRC ruler Jiang Zemin attended a summit in Dushanbe, Tajikistan, China shifted the five nations' counterterrorism approach to target what it mixed as the threat of the "three evil forces" of religious extremism, national separatism, and international terrorism. In Shanghai in June 2001, the group added Uzbekistan and became the Shanghai Cooperation Organization (SCO).

After the terrorist attacks on September 11, 2001, China's influence expanded in the SCO along with increased international attention to terrorism. China has granted military assistance to Central Asian countries. The PRC also has operationalized the fight with its military as it sought lessons for modernization. Since 2002, the PLA has conducted combined military exercises in Xinjiang with Central Asian countries and with Russia under the guise of combating terrorists.

However, the SCO summits in 2005 and 2006 raised U.S. concerns. In addition to Mongolia, the countries of India, Pakistan, as well as Iran were invited as observers in 2005. The SCO summit issued a declaration on July 5, 2005, that called for a "deadline" for the counterterrorism coalition's "temporary" use of facilities and military presence in SCO countries, because major military operations against terrorists ended in Afghanistan, they claimed. U.S. armed forces were deployed at bases in Uzbekistan until 2005 and have maintained an airbase in Kyrgyzstan, raising China's suspicions about U.S. military deployments in Central Asia and a perceived U.S. encirclement campaign. PRC ruler Hu Jintao also argued that Central Asian countries could

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<sup>101</sup> For more discussion, see CRS Report RL32496, *U.S.-China Military Contacts: Issues for Congress*, by Shirley A. Kan.

<sup>102</sup> Senator Bob Smith and Representative Dana Rohrabacher, letter to Secretary of Defense Donald Rumsfeld, December 17, 2001.

<sup>103</sup> Rand, "U.S.-China Security Management: Assessing the Military-to-Military Relationship," July 2004.

handle their own internal and regional affairs. General Richard Myers, Chairman of the Joint Chiefs of Staff, responded on July 14, 2005, that China and Russia were “trying to bully” the Central Asian countries. A week later, China’s official *People’s Daily* accused General Myers of showing “arrogance” and U.S. intentions to “permanently meddle” and be “strategically dominant” in Central Asia.

During the 109<sup>th</sup> Congress, on July 19, 2005, the House passed (by voice vote) Representative Tom Lantos’s amendment to the Foreign Relations Authorization Act for FYs 2006 and 2007 (**H.R. 2601**). The language expressed the congressional concern that the SCO’s declaration called for a deadline for deployments in Central Asia and called on the President and Secretaries of Defense and State to open a dialogue with SCO countries about the use of bases there. The House passed H.R. 2601 (by 351-78) on July 20, 2005, whereas the Senate did not vote on it.

The PRC hosted a summit of SCO members in Shanghai on June 15, 2006, that included Iran as an observer in an ostensibly counterterrorism group. The State Department criticized that inclusion of Iran, a state sponsor of terrorism, as running “counter” to the international fight against terrorism. Ahead of the SCO summit in Bishkek in August 2007, the PRC’s official newspaper published an article calling for the U.S. military to withdraw from the base in Kyrgyzstan. Also, the Deputy Speaker of the Kyrgyz parliament said he expected pressure from Russia and China on his government concerning the use of the Manas air base by the U.S. military.<sup>104</sup> In August 2007, the PLA and Russian forces held a combined counterterrorism exercise called “Peace Mission 2007” under the SCO’s sponsorship in Chelyabinsk in Russia’s Ural Mountains and in Urumqi in Xinjiang. The exercise targeted what China called the “three evil forces.” In 2008, Iran applied to be a SCO member.

## PRC-Origin Weapons and Iran

Since 2006, U.S. concern has increased about China-origin weapons that have been found in the conflicts in the Middle East or in Afghanistan (and Iraq) involving U.S. and allied forces, as part of the broader threat posed by Iran and its arms transfers to terrorist forces.

On July 14, 2006, Hezbollah used C-802 anti-ship cruise missiles to hit an Israeli naval ship off Lebanon, an attack that killed four crewmembers, according to surprised U.S. and Israeli officials. (Hezbollah is a U.S.-designated Foreign Terrorist Organization (FTO) and a major political faction in Lebanon with an armed wing that, in the past, has conducted acts of international terrorism.) A second missile sank a Cambodian merchant ship. Iran allegedly armed Hezbollah with C-802 missiles first acquired from China in the 1990s and/or clones of them with the Noor name.<sup>105</sup>

PRC-made weapons found in Afghanistan, mainly small arms and ammunition, have included man-portable anti-aircraft missiles (such as the HN-5 missiles); armor-piercing ammunition; rocket propelled grenades; artillery rockets; sniper rifles; and components for weapons. In late 2001, PRC-origin (produced by the state-owned defense-industrial company, NORINCO) multiple rocket launchers (using 107 mm rockets) were found in Afghanistan. Also, in late 2001 to spring 2002, caches of PRC-origin HN-5 missiles, ammunition, and rocket propelled grenades

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<sup>104</sup> *Renmin Ribao* [*People’s Daily*], June 15, 2007; *AKI Press*, July 10, 2007.

<sup>105</sup> *New York Times*, July 19, 2006; *Jane’s Defense Weekly*, July 26, 2006; *USA Today*, August 18, 2006.

were discovered. In June 2007, the Taliban used PRC-made HN-5 surface-to-air missiles in Afghanistan. In some cases, tracing to the producer of the arms is challenged by the intentional removal of serial numbers from the weapons or parts. Also adding to the challenge of identifying the source of weapons is the fact that Iran has manufactured an anti-aircraft missile, called the Misagh-1, that is similar to the QW-1 anti-air missile made by the PRC's state-owned, defense industrial company: the China Precision Machinery Import and Export Corporation (CPMIEC).<sup>106</sup>

Even while U.S. officials have pointed to China as the origin of some of the weaponry found in Afghanistan, another question concerns whether the supplies are new (since Operation Enduring Freedom began in 2001) or left over from the years when various countries transferred weapons to Mujahedin fighters in Afghanistan during its Soviet occupation in the 1980s or later in the 1990s. China's CPMIEC exported the HN-5 anti-aircraft missiles for years, and China previously supplied them to the Mujahedin in Afghanistan, Iran, and other countries.<sup>107</sup> Defense Secretary Donald Rumsfeld told reporters in August 2002 that Afghanistan is "filled with weapons" and that "you do find things from China, but you find them from country after country after country." He added, "a lot of it is quite old and probably not stable."<sup>108</sup> In September 2007, an Afghan Interior Ministry spokesman said that his government seized various types of arms, including PRC weapons, but did not have evidence of new PRC arms being transferred to the Taliban.<sup>109</sup> Aside from the explanation of left-over caches, PRC-made weapons are not the only type uncovered. In the same month, another Afghan official announced that arms made in China, Iran, and Russia were discovered in the city of Herat, near the western border with Iran.<sup>110</sup>

In its approach, the Bush Administration focused concerns and questions on Iran, rather than China, and how the weapons ended up in Afghanistan (some through Iran), rather than where they were made (in China, Iran, or other countries). Focusing on Iran, Under Secretary of State for Political Affairs Nicholas Burns specifically said on June 13, 2007: "There's irrefutable evidence the Iranians are now [transferring arms to the Taliban in Afghanistan], and it's a pattern of activity." ... "It's coming from the Iranian Revolutionary Guard Corps command, which is a basic unit of the Iranian government." After just retiring as Deputy Under Secretary of Defense, Richard Lawless told reporters on July 6 that "Identifying how [the weapons] came through Iran [into Afghanistan] and who is facilitating that transit through Iran is the key issue for us right now. It is really not the issue of where they ultimately were manufactured." Nonetheless, despite the primary focus on Iran, the Administration sent demarches to Beijing. Lawless confirmed that the United States expressed concerns to China about exercising greater care in its arms sales to Iran. Deputy Assistant Secretary of Defense for East Asia David Sedney also said at a meeting of the U.S.-China Economic and Security Review Commission on July 12, that the United States has "repeatedly asked China to stop its transfers to Iran of conventional weapons and technologies,"

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<sup>106</sup> Bill Gertz and Rowan Scarborough, "Inside the Ring: China-al Qaeda Nexus," *Washington Times*, December 21, 2001; Bill Gertz, "China-made Artillery Seized in Afghanistan," *Washington Times*, April 12, 2002; "China-trained Taliban," *Washington Times*, June 21, 2002; Scott Baldauf, "Al Qaeda Massing for New Fight" and "How Al Qaeda Seeks to Buy Chinese Arms," *Christian Science Monitor*, August 9 and 23, 2002; *Jane's Land-based Air Defence 2003-2004*; Philip Smucker, "Taliban Uses Weapons Made in China, Iran," *Washington Times*, June 5, 2007; "Chinese Arms in the Hands of Taleban," editorial, *Kabul Times*, June 7, 2007; Bill Gertz, "China Arming Terrorists," *Washington Times*, June 15, 2007; Demetri Sevastopulo, "U.S. Takes China to Task Over Iraq and Afghan Arms," *Financial Times*, July 9, 2007; *Jane's Armor and Artillery 2007-2008*.

<sup>107</sup> *Jane's Land-Based Air Defence, 1996-1997, and 2003-2004*.

<sup>108</sup> Briefing by Defense Secretary Rumsfeld and General Myers, August 9, 2002.

<sup>109</sup> *Tolu Television*, Kabul, September 4, 2007.

<sup>110</sup> *Pajhwok Afghan News*, Kabul, September 6, 2007; *AFP*, September 22, 2007.

but Beijing's response has been "irresponsible." He also warned, "partners do not provide weapons to people who support those who kill our troops and those of our allies." While in Kabul on September 11, Deputy Secretary of State John Negroponte acknowledged that he raised concerns with China about its arms sales to Iran and requested that China refrain from signing any new arms sales contracts with Iran.<sup>111</sup> The United Kingdom also asked Beijing about the Taliban's use of PRC weapons against U.K. troops in Afghanistan.<sup>112</sup>

It was uncertain as to whether China has stopped arms transfers to Iran or prevented any new arms sales contracts with Iran, as Negroponte urged. The PRC did not deny its arms sales to Iran and indeed conveyed a sense of "business as usual." In 2007, when questioned by reporters about PRC arms sales to Iran that were found in Afghanistan (and Iraq), the PRC Foreign Ministry characterized its arms sales as "normal" military trade and cooperation with other countries. The ministry stated China's position that its arms sales were beyond reproach and responsible because China follows these "principles" for arms exports: they are for legitimate self-defense; they do not undermine international peace and stability; they do not interfere in the internal affairs of the recipients; and they are exported only to sovereign countries. In addition, the Foreign Ministry claimed that China stipulated another condition: no re-transfer to a third party without PRC permission. The ministry also argued that China complied with international laws and United Nations Security Council (UNSC) resolutions.<sup>113</sup>

However, China could contend compliance with the letter of UNSC resolutions because China (along with Russia) objected to UNSC sanctions targeting Iran's arms imports. Thus, only after diplomatic negotiations on additional sanctions against Iran for its nuclear enrichment program (during which China and Russia objected to banning Iran's arms imports and export credit guarantees for doing business in Iran),<sup>114</sup> China voted with all other UNSC members on March 24, 2007, for Resolution 1747, which included a ban on Iran's arms exports (not imports).

Aside from the issue of whether the PRC has been responsive to U.S. concerns, the complicity of China's government in allowing or acquiescing in the arms flow to Iran is another question. Part of that question concerns whether the PLA has been involved. The arms manufacturers were PRC state-owned defense-industrial plants, rather than the PLA itself, although the PLA might have a role in any vetting of the arms exports. Regardless of whether the PRC government did or did not know about these arms sales to Iran or PRC weapons found in Afghanistan and Iraq, U.S. demarches have now raised the problem with Beijing.

Continuing into 2008, the Director of National Intelligence (DNI) testified to Congress that the PRC's arms sales in the Middle East are "destabilizing" and "a threat" to U.S. forces, while missile sales to Iran pose a "threat to U.S. forces in the Persian Gulf."<sup>115</sup> At a hearing in June 2008, Defense Department officials testified to Congress that although the United States

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<sup>111</sup> "Iran Arming Taliban, U.S. Claims," *CNN*, June 13, 2007; Richard Lawless, transcript of interview with Asahi Shimbun and other newspapers, July 6, 2007; Demetri Sevastopulo, "U.S. Takes China to Task Over Iraq and Afghan Arms," *Financial Times*, July 9, 2007; Jim Wolf, "U.S. Faults China on Shipments to Iran," *Reuters*, July 12, 2007; John Negroponte, Press Roundtable in Afghanistan, Kabul, Afghanistan, September 11, 2007.

<sup>112</sup> Paul Danahar, "Taleban Getting Chinese Weapons," *BBC News*, September 3, 2007.

<sup>113</sup> PRC Foreign Ministry news conferences, July 10; July 26; September 4, 2007.

<sup>114</sup> "Nations Closer to Deal on Iran Sanctions," *AP*, March 13, 2007; and Colum Lynch, "6 Powers Agree on Sanctions for Iran," *Washington Post*, March 16, 2007.

<sup>115</sup> Senate Select Committee on Intelligence, hearing on the DNI's annual threat assessment, testimony of J. Michael McConnell, February 5, 2008.

demanded that the PRC stop transfers that violate U.N. sanctions, nonproliferation norms, and PRC law, U.S. efforts met with “mixed results.” China’s cooperation was “uneven” and it needs to act “responsibly.” The officials testified that there are particular concerns about PRC sales of conventional weapons to Iran, a “country that supports terrorism and groups in Iraq, Lebanon, and Afghanistan that target and kill Americans and our allies.”<sup>116</sup>

## **Author Contact Information**

Shirley A. Kan  
Specialist in Asian Security Affairs  
[skan@crs.loc.gov](mailto:skan@crs.loc.gov), 7-7606

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<sup>116</sup> House Armed Services Committee, hearing on recent security developments in China, prepared joint statement of James Shinn, Assistant Secretary of Defense for Asian and Pacific Security Affairs, and Major General Phillip Breedlove, USAF, Vice Director for Strategic Plans and Policy, Joint Chiefs of Staff, June 25, 2008.